

REMARKS

Claims 1-16, 18-29, and 31-34 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

INTERVIEW SUMMARY

Applicant thanks the Examiner for the interviews granted with Applicant's Representative on June 26 and July 8, 2009. The noted omissions from the Office Communication of June 10, 2009 were discussed with the Examiner. Proposed language was discussed, though no agreement as to language that would overcome the noted omissions was reached. An agreement was reached, however, that the Examiner would contact Applicant's representative if all of the claims were not found to be in condition for allowance. Also, the Examiner noted that the amendment filed March 23, 2009 has been entered and the amendments to the claims should be made to the claims as pending following the March 23, 2009 amendment.

NOT FULLY RESPONSIVE

Claims 1 and 8 are submitted to include new subject matter. Claims 12 and 28 are submitted to be indefinite.

Applicant submits that the application as filed supports Independent Claim 1 that recites, "a plurality of attachment passages" at least in Fig. 26, and the associated description including paragraph 98, illustrating and describing a plurality of passages 504a – 504d through a single liner. Accordingly, Applicant respectfully submits that

Independent Claim 1 does not include new matter and submits that the Examiner agreed during the above summarized interview.

Independent Claim 8 has been amended to recite, "an attachment member alternatively extendable through each of the first attachment passage or the second attachment passage . . . wherein the attachment member alternatively interconnects one of said first and second trial bearing liners to the acetabular prosthesis." Applicant respectfully submits that this amendment clarifies that the first and second liner are alternatively and not simultaneously attached to the acetabular prosthesis. Applicant submits that Claim 8 does not include new subject matter and submits that the Examiner agreed during the above referenced interview.

Independent Claim 12 has been amended to recite, "a first trial bearing liner defining a first attachment throughbore at a first position offset a first distance from a first apex of the first trial bearing liner; a second trial bearing liner defining a second attachment throughbore at a second position offset a second distance different from the first distance from a second apex of the second trial bearing liner." Applicant respectfully submits that this is fully supported by the application as filed as illustrated in various embodiments, such as Fig. 21 and Fig. 26. Applicant respectfully submits that a distance has a geometrical definition and is inherently present in space defined by a sphere or semi-sphere structure. Accordingly, Applicant respectfully submits that Independent Claim 12, as amended, is supported by the application as filed and does not include new subject matter and is clear.

Independent Claim 28 has been amended to recite, "implanting the acetabular prosthesis, the acetabular prosthesis having a rim that defines an acetabular cup plane;

disposing a first trial bearing liner in said acetabular prosthesis; rotating said first trial bearing liner around the first attachment passage axis to select a first orientation of the trial bearing liner relative to the plane defined by the acetabular prosthesis . . . removing said first trial bearing liner from the implanted acetabular prosthesis and placing a second trial bearing liner in said implanted acetabular prosthesis based on said determination of presence of contact, wherein said second trial bearing liner is operable to be rotated through a second orientation relative to the acetabular prosthesis." Applicant respectfully submits that support for the amendment to Independent Claim 28 can be found in the application as filed, at least in Figs. 24 and 25, and the associated description including paragraphs 93-97, regarding positioning different liners and rotating the liners relative to the implanted acetabular prosthesis. Accordingly, Applicant respectfully submits that Independent Claim 28, as amended, does not include new subject matter and is clear.

The Applicant respectfully submits that the amendments to Claims 8, 12, and 28 overcome any new matter issues or clarity issues raised in the Office Communication. Further, Applicant respectfully submits that Independent Claim 1 does not include new subject matter. Accordingly, Applicant respectfully submits that all of the presently pending claims are in condition for allowance. If all of the claims are not in condition for allowance, Applicant respectfully requests that the Examiner contact Applicant's representative to discuss any further amendments.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: July 10, 2007

By: Richard W. Warner
Richard W. Warner, Reg. No. 38,043
Michael L. Taylor, Reg. No. 50,521

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

RWW/MLT/srh

146/1031 T